

PAYMENT TO CERTAIN PUBLIC HEALTH SERVICE OFFICERS FOR ACCRUED LEAVE

JUNE 27, 1952.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed.

Mr. RHODES, from the committee on Post Office and Civil Service, submitted the following

R E P O R T

[To accompany H. R. 7444]

The Committee on Post Office and Civil Service, to whom was referred the bill (H. R. 7444) to amend the act of August 1, 1941, to include Public Health Service officers, having considered the same, report favorably thereon with an amendment and recommend that the bill, as amended, do pass.

The amendment is as follows:

Change the title of the bill to read:

A bill to extend the Act of August 1, 1941, to include Public Health Service officers.

PURPOSE OF THE AMENDMENT

The amendment is merely a technical amendment to the title of the bill and changes the word "amend" to "extend" to bring the title in conformity with the language of the bill as agreed on by the committee.

STATEMENT

This legislation will permit the payment of accrued annual leave to Public Health Service officers who entered the armed services prior to November 11, 1943. Public Health Service officers who entered the armed services after November 11, 1943, were paid for their leave. The act of August 1, 1941, as amended, which is extended to these Public Health Service officers by this legislation, authorized employees of the Government entering the Armed Forces to receive compensation covering their civilian accrued leave or elect to have such leave remain to their credit until their return from military service. This statute was construed by the Comptroller General as inapplicable to

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Public Health Service officers entering the Armed Forces prior to the act of November 11, 1943, which act granted to Public Health Service officers certain rights provided by law for commissioned officers of the armed services.

The House approved, on May 6, a private bill (H. R. 586) which would grant payment for accrued leave to one of these Public Health Service officers. The Committee on the Judiciary, which recommended this legislation, stated their view that general legislation should be enacted but that it did not seem equitable to make the particular officer who had filed such a claim await the enactment of such general legislation. The chairman of the subcommittee of the Judiciary Committee which considered the private bill appeared at hearings on H. R. 7444 and urged favorable action on this legislation. He stated that the Judiciary Committee unanimously was of the view that the general legislation was desirable.

There were 98 officers who were separated from the Public Health Service during the period in question, that is, May 1, 1940, to November 11, 1943. Information is not available as to the number of these officers who may have entered the military service and as such are entitled to compensation for their accrued annual leave. No claim has been filed except that covered by H. R. 586. In any event, the cost of the legislation will be very small.

The legislation has the endorsement of the Bureau of the Budget and of the Federal Security Agency, of which the Public Health Service is a component.

The Assistant Comptroller General submitted an unfavorable report on this legislation, on the grounds that it would confer on a special class of officers a leave benefit not enjoyed by any other commissioned officers and would grant to such officers the right to greater leave payment than that accruing to other employees now subject to the act of August 1, 1941. However, since the House already has approved the same leave benefit and right to compensation in the case of a particular officer, to deny equal treatment to other officers of exactly the same class would appear to be discriminatory. This legislation would remove any such discrimination.

The favorable reports of the Bureau of the Budget, the Federal Security Agency, and the Civil Service Commission follow:

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington 25, D. C., June 3, 1952.

HON. TOM MURRAY,
*Chairman, Committee on Post Office and Civil Service,
House of Representatives, Washington 25, D. C.*

MY DEAR MR. CHAIRMAN: This will acknowledge your letter of April 10, 1952, inviting the Bureau of the Budget to comment on H. R. 7444, to amend the act of August 1, 1941, to include Public Health Service officers.

The act of August 1, 1941 (5 U. S. C. 61 (a)), as amended, authorizes employees of the Government entering the Armed Forces to receive compensation covering their civilian accrued leave or to elect to have such leave remain to their credit until their return from military service. By decision of the Comptroller General, the statute has been construed as being inapplicable to Public Health Service officers entering the Armed Forces prior to the act of November 11, 1943, which act granted to Public Health Service officers certain rights provided by law for commissioned military personnel.

The purpose of this legislation, which is sponsored by the Federal Security Agency, is to broaden the scope of the 1941 act, as amended, so as to permit those Public Health Service officers who entered the Armed Forces prior to the 1943

act to receive the same treatment with respect to accrued leave as that accorded Public Health Service officers who entered the Armed Forces subsequent to the act.

The Bureau of the Budget recommends that your committee give favorable consideration to this legislation.

Sincerely yours,

Assistant Director.

FEDERAL SECURITY AGENCY,
Washington, D. C., June 6, 1952.

Hon. TOM MURRAY,
Chairman, Committee on Post Office and Civil Service,
House of Representatives, Washington, D. C.

DEAR MR. CHAIRMAN: This letter is in response to your request of April 11, 1952, for a report on H. R. 7444, a bill to amend the act of August 1, 1941, to include Public Health Service officers.

Under the act of August 1, 1941, as amended (5 U. S. C. 61a) "Employees of the United States Government, * * *, who, subsequent to May 1, 1940, shall have entered upon active military or naval service * * *, shall be entitled to receive, in addition to their military pay, compensation in their civilian positions covering their accumulated or current accrued leave, * * *." Despite the fact that commissioned officers of the Public Health Service were in a civilian status and were entitled to no military benefits prior to November 11, 1943, this statute has been construed by the Comptroller General as inapplicable to such officers who left the Service prior to such date to enter one of the Armed Forces.

In view of this decision Dr. James F. Spindler was denied payment for leave which he had accumulated as a commissioned officer prior to his entry into the armed services in September of 1943. In order to compensate Dr. Spindler for such leave a private relief bill, H. R. 856, was introduced and was referred to the Committee on the Judiciary. In response to a request for a report on this bill this Agency advised the chairman of that committee by letter of March 31, 1952, that general legislation would be preferable to a private relief bill in order that other officers in the same position as Dr. Spindler might be compensated for leave which, up to now, has been denied them.

H. R. 7444, which has been introduced as a result of our letter of March 31, 1952, would provide for payment of terminal leave to all former Public Health Service commissioned officers who left the Service between May 1, 1940, and November 11, 1943, to enter the military or naval service in the land and naval forces of the United States. Whereas records currently on file with the Public Health Service do not indicate the exact number of officers who left the Service to enter military service during the period involved, the total number who left the Service during that time for all reasons, including retirement and resignations to enter private practice, is 98. It is likely, however, that only a small fraction of that number left for military service.

Although the title of this bill refers to an amendment of the act of August 1, 1941, the bill would, technically, merely extend the benefits of such act to former officers of the Public Health Service. Therefore, your committee may wish to delete the word "amend" in the title of the bill and insert in lieu thereof the word "extend".

We, therefore, recommend the enactment of H. R. 7444.

The Bureau of the Budget advises that there is no objection to the submission of this report to your committee.

Sincerely yours,

JOHN L. THURSTON,
Acting Administrator.

UNITED STATES CIVIL SERVICE COMMISSION,
Washington 25, D. C., May 16, 1952.

Hon. TOM MURRAY,
Chairman, Committee on Post Office and Civil Service,
House of Representatives, Washington, D. C.

DEAR MR. MURRAY: Further reference is made to your letter of April 10, 1952, requesting a report on H. R. 7444, a bill to amend the act of August 1, 1941, to include Public Health Service officers.

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H. R. 7444 would amend the Public Health Service Act (title VII of the act of July 1, 1944 (ch. 373, 58 Stat. 682) as amended) by inserting the following new section:

"Sec. 709. Officers of the commissioned Regular Corps and of the Reserve Corps of the Public Health Service who, subsequent to May 1, 1940, and prior to November 11, 1943, have entered upon active military or naval service in the land or naval forces of the United States, by voluntary enlistment or otherwise, shall be entitled to the rights conferred upon employees of the United States Government by the Act of August 1, 1941 (55 Stat. 616), as amended by the Act of April 7, 1942 (56 Stat. 200). Any claim which may be submitted for payment pursuant to this section may be paid from appropriations current at the time such claim is approved."

The act of August 1, 1941, as amended, which is referred to, entitled Government employees to be paid for their annual leave when they entered military service or to elect to have it remain to their credit when they returned, and was retroactive to May 1, 1940. That legislation, however, was construed as inapplicable to officers of the Public Health Service who entered the Armed Forces. Consequently, such officers who entered military service before November 11, 1943 (the date of a law which gave certain military rights to Public Health Service officers and under which they were permitted to keep their leave) could not be paid for their leave and could not transfer it. H. R. 7444 would now entitle those Public Health Service officers who lost leave by entering military service between May 1, 1940, and November 11, 1943, to payment for the leave.

The Commission sees no objection to this legislation.

By direction of the Commission:

Sincerely yours,

ROBERT RAMSPECK, *Chairman.*

The following adverse report was submitted by the Assistant Comptroller General:

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington 25, June 13, 1952.

HON. TOM MURRAY,
*Chairman, Committee on Post Office and Civil Service,
House of Representatives.*

MY DEAR MR. CHAIRMAN: Reference is made to your letter of May 17, 1952, acknowledged by phone May 19, 1952, enclosing copies of H. R. 7444, Eighty-second Congress, second session, entitled "A bill to amend the act of August 1, 1941, to include Public Health Service officers," and requesting a report, in triplicate, thereon.

The bill provides as follows:

"That title VII of the Act of July 1, 1944 (ch. 373, 58 Stat. 682), as amended, is hereby amended by inserting immediately after section 708 the following new section:

"Sec. 709. Officers of the commissioned Regular Corps and of the Reserve Corps of the Public Health Service who, subsequent to May 1, 1940, and prior to November 11, 1943, have entered upon active military or naval service in the land or naval forces of the United States, by voluntary enlistment or otherwise, shall be entitled to the rights conferred upon employees of the United States Government by the Act of August 1, 1941 (55 Stat. 616), as amended by the Act of April 7, 1942 (56 Stat. 200). Any claim which may be submitted for payment pursuant to this section may be paid from appropriations current at the time such claim is approved."

While the title of H. R. 7444 states that it is a bill to amend the act of August 1, 1941, such bill, in fact, is an amendment to the act of July 1, 1944. It is suggested, therefore, that the bill be retitled, "A bill to extend the benefits of the act of August 1, 1941, as amended, to certain Public Health Service officers."

The said act of August 1, 1941, as amended by the act of April 7, 1942, (56 Stat. 200), provides:

"* * * That employees of the United States Government, its Territories or possessions, or the District of Columbia (including employees of any corporation created under authority of an Act of Congress which is either wholly controlled or wholly owned by the United States Government, or any corporation, all the stock of which is owned or controlled by the United States Government, or any department, agency, or establishment thereof, whether or not the employees thereof are paid from funds appropriated by Congress), who, subsequent to May 1, 1940, shall have entered upon active military or naval service in the land

or naval forces of the United States by voluntary enlistment or otherwise, shall be entitled to receive, *in addition to their military pay, compensation in their civilian positions* covering their accumulated or current accrued leave, or to elect to have such leave remain to their credit until their return from active military or naval service." [Italics supplied.]

Pursuant to the provisions of the Annual Leave Act of March 14, 1936 (46 Stat. 1161), as amended by the act of December 17, 1942, 56 Stat. 1052, "employees of the United States Government," etc., were entitled during the period covered by H. R. 7444 to a leave credit of 26 days per year and were permitted to accumulate not to exceed 90 days' annual leave. And, under the terms of the quoted act of August 1, 1941, as amended, such employees who entered upon active service in the land or naval forces subsequent to May 1, 1940, are entitled to be paid for their accumulated and current accrued leave "in their civilian positions" and at the same time to receive the pay and allowances incident to their military service.

Although the United States Public Health Service is a part of the civil Government, its medical officers are commissioned by the President without regard to the requirements of the civil service laws, and provisions for the pay and allowances of such officers have been and are included in legislation respecting pay and allowances of officers of the military forces of the Nation. See the acts of June 10, 1922, June 16, 1942, and October 12, 1949 (42 Stat. 625, 56 Stat. 359, and 63 Stat. 802), respectively. Also, prior to the enactment of the Public Health Service Act of July 1, 1944, the leave rights of commissioned officers of the Public Health Service were identical with those of officers of the Army and Navy. In this regard it may be noted that this similarity between officers of the Public Health Service and of the Army and Navy for leave purposes has been continued in most respects subsequent to the said act of July 1, 1944, by virtue of administrative regulations and the act of August 9, 1950 (54 Stat. 677). It was held in Office decision of October 26, 1945, B-51552, copy herewith, that Dr. James F. Spindler, a commissioned officer of the Reserve Corps of the Public Health Service, who resigned his Reserve commission effective September 8, 1943, to accept a commission in the Medical Corps of the Army, was not entitled to payment for the unused leave standing to his credit as a commissioned officer of the Public Health Service.

On January 3, 1951, a bill, H. R. 856, Eighty-second Congress, first session, was introduced in the House of Representatives, authorizing the payment to Dr. Spindler of a sum representing compensation for the unused leave standing to his credit on September 8, 1943, the date upon which he resigned his commission in the Reserve Corps of the Public Health Service. In letter dated March 31, 1952 to the chairman, Committee on the Judiciary, House of Representatives, which letter is printed in House of Representatives Report No. 1814, Eighty-second Congress, second session, to accompany H. R. 856, the Federal Security Agency reported, in part, as follows:

"It is quite likely that there are other individuals in situations similar to that of Dr. Spindler. A private relief bill limited to him would thus confer upon him a privilege denied to others similarly situated. Hence, we would recommend relief in the form of general legislation covering all the people concerned. Enclosed for your consideration is a draft of legislation which would accomplish this purpose.

"We therefore recommend against the enactment of H. R. 856 but would favor such general legislation.

"* * * The Public Health Service could not, without examining the individual record of every officer who left the Service during the period in question, determine how many officers left the commissioned corps of the Service to enter military service during the period involved. The total number who left the corps during that time for any reason, including retirement, resignation to enter private practice, or what not, is 98. It may well be that only a small fraction of that number left for military service. In all the circumstances, however, general legislation would seem, as above indicated, the most equitable, as well as the most certain, method to cover all those who should be covered."

H. R. 7444 is identical with the draft of legislation submitted by the above-quoted letter.

H. R. 856 for the relief of Dr. Spindler passed the House of Representatives on May 6, 1952, and now is pending before the Committee on the Judiciary of the Senate.

The leave laws applicable to officers of the Army and Navy prior to the Armed Forces Leave Act of 1946 (60 Stat. 963), as amended (37 U. S. C. 32-38), and which, as heretofore indicated, governed the leave rights of officers of the Public Health

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Service, authorized a leave credit of 30 days per year for officers on the active list and permitted an accumulation of 120 days' leave. However, such officers who resigned their commissions for any reason, including the acceptance of a commission in another branch of the service, who were discharged, or who were retired, without using all the leave standing to their credit could not and cannot now, be paid for such annual leave. Hence, H. R. 7444 would confer upon Public Health Service officers a leave benefit not provided for other commissioned officers and there appears no good reason for making such an exception in the case of the Public Health Service.

Insofar as the records of this Office show, Dr. Spindler is the only Public Health Service officer who has made claim for payment for unused leave in the situation contemplated by H. R. 7444, and apparently none of the other 98 officers mentioned in the aforesaid letter of March 31, 1952, has made a claim with the Public Health Service for payment for unused leave. Hence, if as appears likely, Dr. Spindler is the only individual whose situation would bring him under H. R. 7444, such bill is no more than a duplicate of the bill for his relief now being considered by the Congress.

It is understood that the commissioned personnel of the Public Health Service has successfully secured full and complete pay and allowance benefits on complete parity with the commissioned personnel of the genuine Armed Forces, and it is not perceived why, equitably, they should secure any greater benefits by contending for those which pertain to civilian employees whose compensation is fixed on an entirely different basis.

Since, as indicated, H. R. 7444 would confer on a special class of Public Health Service officers a leave benefit not enjoyed by any other commissioned officers, and would grant to such officers the right to a greater leave payment than is authorized in the case of any employee now subject to the act of August 1, 1941, as amended, this Office does not recommend favorable consideration of this bill.

Sincerely yours,

FRANK L. YATES,

Assistant Comptroller General of the United States.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington 25, October 26, 1945.

JAMES F. SPINDLER,
*First Lieutenant, Medical Corps, Army of the United States,
Foster General Hospital, Jackson, Miss.*

DEAR LIEUTENANT SPINDLER: Reference is made to your letter of June 7, 1945, requesting review of a settlement of the Claims Division of the General Accounting Office dated August 31, 1944, which disallowed your claim for payment under the act of August 1, 1944, as amended, for the unused annual leave standing to your credit on the effective date of your resignation as a commissioned officer of the Reserve Corps of the Public Health Service.

The record shows that you were commissioned as an assistant surgeon in the Reserve Corps of the United States Public Health Service, on October 18, 1937, and entered upon active duty on that date; that you resigned your commission effective September 8, 1943, in order to accept active duty under a commission as first lieutenant, Medical Corps, Army of the United States, and that you reported for such active duty on September 10, 1943.

The act of August 1, 1941, Public Law 202 (55 Stat. 616), as amended by the act of April 7, 1942 (56 Stat. 200), provides:

“* * * That employees of the United States Government, its Territories or possessions, or the District of Columbia (including employees of any corporation created under authority of an Act of Congress which is either wholly controlled or wholly owned by the United States Government, or any corporation, all the stock of which is owned or controlled by the United States Government, or any department, agency, or establishment thereof, whether or not the employees thereof are paid from funds appropriated by Congress), who, subsequent to May 1, 1940, shall have entered upon active military or naval service in the land or naval forces of the United States by voluntary enlistment or otherwise, shall be entitled to receive, in addition to their military pay, compensation in their civilian positions covering their accumulated or current accrued leave, or to elect to have such leave remain to their credit until their return from active military or naval service.”

The Public Health Service is a part of the civil Government (27 Comp. Dec. 153; 24 id. 98). However, its medical officers are commissioned by the President

without regard to the requirements of the civil service laws, and provisions for the pay and allowances of such officers have been and are included in legislation respecting pay and allowances of officers of the military forces of the Nation. (See the acts of June 10, 1922, and June 16, 1942, 42 Stat. 625, and 56 Stat. 359, respectively.) Also, under the provisions of the act of February 19, 1897 (29 Stat. 554), commissioned officers of the Public Health Service are granted leave "for the same periods of time and in the same manner" as officers of the Army. Under the provisions of the joint resolution of October 27, 1918 (40 Stat. 1017), establishing a Reserve Corps of the Public Health Service, officers commissioned thereunder, when on active duty, receive the same pay and allowances as are provided by law and regulation for the commissioned officers of the regular commissioned Medical Corps of the Public Health Service, and pursuant to paragraphs 231 and 232 of the Public Health Service Regulations, 1931, officers of the Reserve Corps, when on active duty, are entitled to the same leaves of absence as officers of the Regular Corps.

Officers of the Reserve Corps of the Public Health Service have a commissioned as distinguished from civilian status and do not earn compensation nor accrue leave under the civilian compensation and leave statutes; and, the act of August 1, 1941, as amended, does not authorize simultaneously the payment of pay and allowances under commissions in two different reserve forces. Consequently, the said act does not authorize payment to you for any unused leave standing to your credit on the effective date of your resignation as a commissioned officer of the reserve corps of the Public Health Service.

Section 1265, Revised Statutes, as amended by the act of July 29, 1876 (19 Stat. 102), provides that officers of the Army, when on duty, shall receive full pay and allowances during periods of absence with leave not in excess of 30 days in 1 year, and in the discretion of the Secretary of War, such leave may be allowed in 60-day periods if taken once in 2 years, periods of 3 months if taken once in 3 years, or periods of 4 months if taken once in 4 years.

The leave of absence with pay which may be granted to officers of the Army, is permission to be absent from duty and applies only to officers on active duty. Termination of the active duty status terminates all rights, benefits, or privileges to which an officer of the Army may be entitled under Army leave laws by virtue of being on active duty; and it is well established that the officer whose active duty status is terminated prior to using all the leave with pay to which he is entitled may not be paid for such unused leave. A-91116, December 17, 1937; B-27379, July 28, 1942; B-33223, May 4, 1943. Since an officer of the Army would not be entitled to pay for any unused leave standing to his credit on the effective date of his resignation from the Army, you are not entitled to pay for the unused leave standing to your credit on the effective date of the resignation as an officer of the reserve corps of the Public Health Service.

Accordingly, your claim properly was disallowed and upon review, the settlement of August 31, 1944, is sustained.

Respectfully,

FRANK L. YATES,
Assistant Comptroller General of the United States.

CHANGES IN EXISTING LAW

In compliance with paragraph 2a of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as introduced, are shown as follows (new matter is printed in italics, existing law in which no change is proposed is shown in roman):

TITLE VII OF THE ACT OF JULY 1, 1944 (PUBLIC LAW 410, SEVENTY-EIGHTH CONGRESS)

TITLE VII—TEMPORARY AND EMERGENCY PROVISIONS AND AMENDMENTS AND REPEALS

EXISTING POSITIONS, PROCEDURES, AND SO FORTH

SEC. 701. (a) The provisions of this Act shall not affect the term or tenure of office or employment of the Surgeon General, or of any officer or employee of the Service, or of any member of the National Advisory Health Council or the National Advisory Cancer Council, in office or employed at the time of its enactment.

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(b) Notwithstanding the provisions of this Act, existing positions, divisions, committees, and procedures in the Service shall continue unless and until abolished, changed, or transferred pursuant to authority granted in this Act.

EXISTING REGULATIONS, AND SO FORTH

SEC. 702. Notwithstanding the provisions of this Act, existing rules, regulations of or applicable to the Service, and Executive orders, shall remain in effect until repealed, or until modified or superseded by regulations made in accordance with the provisions of this Act.

FUNDS, APPROPRIATIONS, AND PROPERTY

SEC. 703. All appropriations, allocations, and other funds, and all properties available for use by the Public Health Service or any division or unit thereof shall continue to be available to the Service.

APPROPRIATIONS FOR EMERGENCY HEALTH AND SANITATION ACTIVITIES

SEC. 704. For each fiscal year during the continuance of the present war and during any period of demobilization after the war, there is hereby authorized to be appropriated such sum as may be necessary to enable the Surgeon General, either directly or through State health authorities, to conduct health and sanitation activities in areas adjoining military or naval reservations within or without the United States, in areas where there are concentrations of military or naval forces, in Government and private industrial plants engaged in defense work, and in areas adjoining such industrial plants.

EMPLOYEES' COMPENSATION

SEC. 705. (a) Section 7 of the Act of September 7, 1916, entitled "An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes", as amended (U. S. C., 1940 edition, title 5, sec. 757), is amended by changing the period at the end thereof to a colon and adding the following: "*Provided*, That whenever any person is entitled to receive any benefits under this Act by reason of his injury, or by reason of the death of an employee, as defined in section 40, and is also entitled to receive from the United States any payments or benefits (other than the proceeds of any insurance policy), by reason of such injury or death under any other Act of Congress, because of service by him (or in the case of death, by the deceased) as an employee, as so defined, such person shall elect which benefits he shall receive. Such election shall be made within one year after the injury or death, or such further time as the Commission may for good cause allow, and when made shall be irrevocable unless otherwise provided by law."

(b) The definition of the term "employee" in section 40 of such Act of September 7, 1916, as amended (U. S. C., 1940 edition, title 5, sec. 790), is amended to read as follows:

"The term 'employee' includes all civil employees of the United States and of the Panama Railroad Company, commissioned officers of the Regular Corps of the Public Health Service, officers in the Reserve of the Public Health Service on active duty, and all persons, other than independent contractors and their employees, employed on the Menominee Indian Reservation in the State of Wisconsin, subsequent to September 7, 1916, in operations conducted pursuant to the Act entitled 'An Act to authorize the cutting of timber, the manufacture and sale of lumber, and the preservation of the forests on the Menominee Indian Reservation in the State of Wisconsin,' approved March 28 1908, as amended, or any other Act relating to tribal timber and logging operations on the Menominee Reservation."

(c) ¹

(d) In the case of death of a commissioned officer of the Service which occurred after December 7, 1941, and prior to November 11, 1943, the rights provided to surviving beneficiaries by section 10 of the Public Health Service Act of 1943 shall continue notwithstanding the repeal of that Act. Such beneficiaries, in addition to the right to receive six months' pay, shall have the same right of election and of revising elections as is provided by subsection (c) of this section, except that in case of a revised election no deduction shall be made on account of such six months' pay.

¹Sec. 705 (c) was repealed by sec. 2 (c) of Public Law 239, 80th Cong.

SEC. 706. In the case of any commissioned officer of the Service appointed prior to July 1, 1944, there shall be included, in determining the amount of retired pay pursuant to subsection (b) (1) of section 211, and in determining whether he should or may be retired pursuant to subsection (a) of such section, noncommissioned service in the Public Health Service, as well as all commissioned service.

ALLOWANCES FOR UNIFORMS TO CERTAIN COMMISSIONED PERSONNEL

SEC. 707. Each commissioned officer of the Service who was appointed to the Regular Corps or called to active duty in the Reserve Corps since December 7, 1941, and prior to the enactment of this Act, and who on or after November 11, 1943, was on active duty in the grade of junior assistant, assistant, or passed assistant and was receiving the pay of the first, second, or third pay period, shall be entitled to receive an allowance of \$250 for uniforms and equipment.

PATIENTS OF SAINT ELIZABETHS HOSPITAL IN PUBLIC HEALTH SERVICE HOSPITALS

SEC. 708. Insane patients entitled to treatment in Saint Elizabeths Hospital who may heretofore or hereafter, during the continuance of the present war, or during the period of six months thereafter, have been admitted to hospitals of the Service, may continue to be cared for and treated in such hospitals notwithstanding the termination of such period.

SEC. 709.²

SEC. 709. Officers of the commissioned Regular Corps and of the Reserve Corps of the Public Health Service who, subsequent to May 1, 1940, and prior to November 11, 1943, have entered upon active military or naval service in the land or naval forces of the United States, by voluntary enlistment or otherwise, shall be entitled to the rights conferred upon employees of the United States Government by the Act of August 1, 1941 (55 Stat. 616), as amended by the Act of April 7, 1942 (56 Stat. 200). Any claim which may be submitted for payment pursuant to this section may be paid from appropriations current at the time such claims is approved.

TEMPORARY PROVISIONS RESPECTING MEDICAL AND HOSPITAL BENEFITS

SEC. 710. (a) Subject to regulations of the President, members of the Women's Reserve of the Coast Guard, or their dependents, shall be entitled to the benefits provided by section 326 for male officers and enlisted men of the Coast Guard or their dependents: *Provided*, That the husbands of such members shall not be considered dependents, and the children of such members shall not be considered dependents unless their father is dead or they are in fact dependent on their mother for their chief support.

(b) Subject to regulations of the President, lightkeepers, assistant lightkeepers, and officers and crews of vessels of the former Lighthouse Service, including any such persons who subsequent to June 30, 1939, have involuntarily been assigned to other civilian duty in the Coast Guard, who were entitled to medical relief at hospitals and other stations of the Public Health Service prior to enactment of this Act, and who are now or hereafter on active duty or who have been or may hereafter be retired under the provisions of section 6 of the Act of June 20, 1918, as amended (U. S. C., 1940 edition, title 33, sec. 763), shall be entitled to medical, surgical, and dental treatment and hospitalization at hospitals and other stations of the Public Health Service: *Provided*, That such persons while on active duty shall also be entitled to care and treatment in accordance with the provisions of section 322 (e) of this Act.

APPOINTMENTS TO HIGHER GRADES FOR MENTAL HEALTH AND HOSPITAL CONSTRUCTION ACTIVITIES

SEC. 711. Twenty officers may be appointed to grades in the Regular Corps of the Service above that of senior assistant, but not to a grade above that of director, to assist in carrying out the purposes of this Act with respect to mental health and twenty officers may be appointed to such grades in the Regular Corps to assist in carrying out title VI of this Act. Officers appointed pursuant to this section in any fiscal year shall not be counted as part of the 10 per centum of the original appointments authorized to be made in such year under section 207 (b); but they shall for all other purposes be treated as though appointed pursuant to such section 207 (b). The twenty officers authorized by this section to be appointed to carry out the purposes of this Act with respect to mental health and

²Sec. 709 was repealed by Public Law 239, 80th Cong.

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the twenty officers so authorized to be appointed to carry out title VI shall be reduced by the number of officers appointed under clause (A) and the number appointed under clause (B), respectively, of section 208 (b) (2) of this Act, in effect prior to the enactment of this section.

CERTAIN RETIREMENTS FOR DISABILITY

SEC. 712. An officer of the Reserve Corps of the Public Health Service who was separated from the Service or returned to inactive status by reason of a disability incurred in line of duty after December 6, 1941, and prior to July 1, 1944, and who would have been eligible for retirement by reason of such disability if section 211 of the Public Health Service Act had been in effect on and after December 7, 1941, shall be considered as though he had been retired at the time of such separation or return to inactive service. Any such officer, and any other officer of the Reserve Corps retired for a disability which was incurred in line of duty after December 6, 1941, and prior to July 1, 1944, shall be entitled, for periods both before and after the date of the enactment of this section, to the same retired pay to which he would have been entitled if such section 211, as amended simultaneously with the enactment of this section, had been in effect on and after December 7, 1941.

REPEAL OF EXISTING LAW

SEC. 713. The following statutes or parts of statutes are hereby repealed:

The two paragraphs under the subheading "Marine—hospital establishment (customs:)" under the heading "Under the Treasury Department" in section 3689 in title XLI of the Revised Statutes of the United States;

Sections 4801, 4802, 4803, 4804, 4805, and 4806 in title LIX of the Revised Statutes of the United States;

The last paragraph under the heading "Miscellaneous" in chapter 130, 18 Statutes at Large 371, which paragraph is the seventh beginning on page 377;

Chapter 156, 18 Statutes at Large 485;

Chapter 66, 20 Statutes at Large 37;

Chapter 202, 20 Statutes at Large 484;

Chapter 61, 21 Statutes at Large 46;

Section 1, and the final clause of section 2 (which reads as follows: "and the said quarantine stations when so established shall be conducted by the Marine Hospital Service under regulations framed in accordance with the Act of April twenty-ninth, eighteen hundred and seventy-eight"), of chapter 727, 25 Statutes at Large 355;

Chapter 19, 25 Statutes at Large 639;

Chapter 51, 26 Statutes at Large 31;

The last sentence of the paragraph headed "Office of the Supervising Surgeon General, Marine Hospital Service" in chapter 541, 26 Statutes at Large 908, which appears at page 923 and reads as follows: "And hereafter, the Supervising Surgeon General is hereby authorized to cause the detail of two surgeons and two passed assistant surgeons for duty in the Bureau, who shall each receive the pay and allowances of their respective grades in the general service.";

Chapter 114, 27 Statutes at Large 449;

The last sentence of the paragraph headed "Office of Supervising Surgeon General, Marine Hospital Service", in chapter 174, 28 Statutes at Large 162, which appears at page 179 and which reads as follows: "And hereafter the Supervising Surgeon General of the Marine Hospital Service, is hereby authorized to cause the detail of an additional medical officer and one hospital steward for duty in the Bureau, who shall each receive the pay and allowances of his respective grade in the general service.";

Chapter 213, 28 Statutes at Large 229;

Chapter 300, 28 Statutes at Large 372;

The last sentence of the paragraph headed "Office of Supervising Surgeon General, Marine Hospital Service", in chapter 177, 28 Statutes at Large 764, which appears at page 780 and which reads as follows: "And hereafter the Supervising Surgeon General of the Marine Hospital Service is hereby authorized to cause the detail of two hospital attendants from the port of New York for duty in the laboratory of the Bureau, and who shall each receive the pay equivalent to the compensation of a first-class hospital attendant.";

The proviso at the end of the paragraph headed "Office of Supervising Surgeon-General Marine-Hospital Service" in chapter 265, 29 Statutes at Large, 538, which appears at page 554 and which reads as follows: "Provided, That the Secretary of the Treasury is hereby authorized, in his discretion, to grant to the medical

officers of the Marine-Hospital Service commissioned by the President, without deduction of pay, leaves of absence for the same period of time and in the same manner as is now authorized to be granted to officers of the Army by the Secretary of War";

Chapter 349, 30 Statutes at Large, 976;

Section 10, chapter 191, 31 Statutes at Large 77, at page 80;

The first paragraph of section 97 of chapter 339, 31 Statutes at Large 141;

Chapter 836, 31 Statutes at Large 1086;

That portion of the third paragraph of section 84 of chapter 1369, 32 Statutes at Large 691, which appears at page 711 and which reads as follows: "and the provisions of law relating to the public health and quarantine shall apply in the case of all vessels entering a port of the United States or its aforesaid possessions from said islands, where the customs officers at the port of departure shall perform the duties required by such law of consular officers in foreign ports";

Chapter 1370, 32 Statutes at Large 712;

Chapter 1378, 32 Statutes at Large 728;

Chapter 1443, 33 Statutes at Large 1009;

The last sentence of the last paragraph under the heading "Public Health and Marine Hospital Service" in chapter 1484, 33 Statutes at Large 1214, which appears at page 1217 and which reads as follows: "And the Secretary of the Treasury shall, for the fiscal year nineteen hundred and seven, and annually thereafter, submit to Congress, in the regular Book of Estimates, detailed estimates of the expenses of maintaining the Public Health and Marine Hospital Service,";

Public Resolution Numbered 21, 33 Statutes at Large 1283;

Chapter 3433, 34 Statutes at Large 299;

Section 17 of chapter 1134, 34 Statutes at Large 898, at page 903;

That portion of the third paragraph under the heading "Back Pay and Bounty" in chapter 200, 35 Statutes at Large 373, as amended by chapter 213, 52 Statutes at Large 352, which is at page 352 of 52 Statutes at Large and which reads as follows: "and of deceased commissioned officers of the Public Health Service";

The proviso in the tenth paragraph under the heading "Public Health and Marine Hospital Service" in chapter 285, 36 Statutes at Large 1363, which appears in the eighth paragraph on page 1394 and which reads as follows: "Provided, That there may be admitted into said hospitals, for study, persons with infectious or other diseases affecting the public health, and not to exceed ten cases in any one hospital at one time", and the substantially similar provisions appearing under the heading "Public Health and Marine Hospital Service" or the heading "Public Health Service" in the following statutes: Chapter 355, 37 Statutes at Large 417, at page 435; chapter 3, 38 Statutes at Large 4, at page 24; chapter 209, 39 Statutes at Large 262, at page 278; chapter 28, 40 Statutes at Large 459, at page 468; chapter 113, 40 Statutes at Large 634, at page 644; chapter 24, 41 Statutes at Large 163, at page 175;

Chapter 288, 37 Statutes at Large 309;

The proviso at the end of the last paragraph under the heading "Public Health Service" in chapter 149, 37 Statutes at Large 912, which appears at page 915 and which reads as follows: "Provided, That hereafter the director of the Hygienic Laboratory shall receive the pay and allowances of a senior surgeon";

That portion of the second paragraph under the heading "Public Health Service" in chapter 3, 38 Statutes at Large 4, which appears at page 23 and which reads as follows: "at least six of the assistant surgeons provided for hereunder shall be required to have had a special training in the diagnosis of insanity and mental defect for duty in connection with the examination of arriving aliens with special reference to the detection of mental defection";

The proviso at the end of the twelfth paragraph under the heading "Public Health Service" in chapter 3, 38 Statutes at Large 4, which appears at page 24 and which reads as follows: "Provided, That hereafter commissioned officers and pharmacists, and those employees of the Service devoting all their time to field work, shall be entitled to hospital relief when taken sick or injured in line of duty";

The last clause of chapter 124, 38 Statutes at Large 387, which reads as follows: "and the said Secretary is hereby authorized to detail for duty on revenue cutters such surgeons and other persons of the Public Health Service as he may deem necessary";

Section 5 of chapter 414, 39 Statutes at Large 536, at page 538;

Chapter 26, 39 Statutes at Large 872;

That portion of section 16 of chapter 29, 39 Statutes at Large 874, which appears at page 885 and which reads as follows: 'who shall have had at least two years'

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experience in the practice of their profession since receiving the degree of doctor of medicine, and";

The sixth paragraph under the heading "Public Health Service" in chapter 3, 40 Statutes at Large 2, at page 6;

The seventh paragraph under the heading "Bureau of Mines" in chapter 27, 40 Statutes at Large 105, which is the third full paragraph appearing on page 146; Chapter 37, 40 Statutes at Large 242;

The proviso in the fourth paragraph under the heading "Public Health Service" in chapter 113, 40 Statutes at Large 634, which appears at page 644 and which reads as follows: "Provided, That the pay of attendants at marine hospitals, quarantine and immigration stations, whose present compensation is less than the rate of \$1,200 per annum, may be increased to a rate not to exceed \$1,200 per annum";

The proviso in the eleventh paragraph under the heading "Public Health Service" in chapter 113, 40 Statutes at Large 634, which appears at page 644 and which reads as follows: "Provided, That the Public Health Service, from and after July first, nineteen hundred and eighteen, shall pay to Saint Elizabeths Hospital the actual per capita cost of maintenance in the said hospital of patients committed by that Service";

The sixtieth paragraph under the heading "Bureau of Fisheries" in chapter 113, 40 Statutes at Large 634, which is the fourth full paragraph appearing on page 694;

Sections 1, 3, 4, 6, and 7 of chapter XV of chapter 143, 40 Statutes at Large 845, at page 886;

The thirteenth paragraph under the heading "General Expenses, Bureau of Chemistry" in chapter 178, 40 Statutes at Large 973, which is the second full paragraph appearing on page 992;

Section 2 of chapter 179, 40 Statutes at Large 1008;

Chapter 196, 40 Statutes at Large 1017;

Chapter 98, 40 Statutes at Large 1302;

The last paragraph under the heading "Public Health Service" in chapter 6, 41 Statutes at Large 35, which is the sixth full paragraph appearing on page 45;

The proviso at the end of the first paragraph under the heading "Public Health Service" in chapter 94, 41 Statutes at Large 503, which appears at page 507, and which reads as follows: "Provided, That the Secretary of the Treasury is authorized to make regulations governing the disposal of articles produced by patients in the course of their curative treatment, either by allowing the patient to retain same or by selling the articles and depositing the money received to the credit of the appropriation from which the materials for making the articles were purchased";

The second paragraph under the heading "Public Health Service" in chapter 94, 41 Statutes at Large 503, which is the seventh full paragraph appearing on page 507;

The last paragraph under the heading "Public Health Service" in chapter 94, 41 Statutes at Large 503, which is the seventh full paragraph appearing on page 508, and the substantially similar provisions in chapter 161, 41 Statutes at Large 1367, at page 1378;

The fourth paragraph under the heading "Quarantine Stations" in chapter 235, 41 Statutes at Large 874, which is the eighth full paragraph appearing on page 875;

The third paragraph under the heading "Public Health Service" in chapter 235, 41 Statutes at Large 874, which is the ninth full paragraph appearing on page 883;

Chapter 80, 41 Statutes at Large 1149;

The second paragraph under the heading "Public Health Service" in chapter 23, 42 Statutes at Large 29, which is the thirteenth full paragraph appearing on page 38;

The proviso at the end of section 4 of chapter 57, 42 Statutes at Large 147, which appears at page 148, and which reads as follows: "Provided, That all commissioned personnel detailed or hereafter detailed from the United States Public Health Service to the Veterans' Bureau, shall hold the same rank and grade, shall receive the same pay and allowances, and shall be subject to the same rules for relative rank and promotion as now or hereafter may be provided by law for commissioned personnel of the same rank or grade or performing the same or similar duties in the United States Public Health Service";

The ninth paragraph under the heading "Bureau of Mines", in chapter 199, 42 Statutes at Large 552, which is the fourth full paragraph on page 588, and the

substantially similar provisions in chapter 42, 42 Statutes at Large, 1174 at page 1210; chapter 264, 43 Statutes at Large 390, at page 422; chapter 462, 43 Statutes at Large 1141, at page 1175;

The last sentence of the paragraph under the heading "Public Health Service" in chapter 258, 42 Statutes at Large 767, which appears at page 776 and which reads as follows: "The Immigration Service shall reimburse the Public Health Service on the basis of per capita rates fixed by the Secretary of the Treasury and the sums received by the Public Health Service from this source shall be covered into the Treasury as miscellaneous receipts";

The first proviso at the end of the ninth paragraph under the heading "Public Health Service" in chapter 84, 43 Statutes at Large 64, which appears at page 75 and which reads as follows: "Provided, That the Immigration Service shall permit the Public Health Service to use the hospitals at Ellis Island Immigration Station for the care of the Public Health Service patients, free of expense for physical upkeep, but with a charge of actual cost for fuel, light, water, telephone, and similar supplies and services, to be covered into the proper Immigration Service appropriations; and moneys collected by the Immigration Service on account of hospital expenses of persons detained under the immigration laws and regulations at Ellis Island Immigration Station shall be covered into the Treasury as miscellaneous receipts";

and substantially similar provisions under the heading "Public Health Service" in chapter 87, 43 Statutes at Large 763, at page 775; chapter 43, 44 Statutes at Large 136, at page 147; chapter 126, 45 Statutes at Large 162, at page 174; chapter 39, 45 Statutes at Large 1028, at page 1039; chapter 289, 46 Statutes at Large 335, at page 347; chapter 110, 49 Statutes at Large 218, at page 229; chapter 725, 49 Statutes at Large 1827, at page 1839; chapter 180, 50 Statutes at Large 137, at page 149; chapter 55, 52 Statutes at Large 120, at page 133; chapter 428, 54 Statutes at Large 574, at page 585; chapter 269, 55 Statutes at Large 466, at page 481; and chapter 475, 56 Statutes at Large 562, at page 581;

Chapter 146, 43 Statutes at Large 809;

The words "and public health" in the last sentence of section 7 (b) of chapter 344, 44 Statutes at Large 568, at page 572;

The words "or public-health" in section 11 (b) (2) of chapter 344, 44 Statutes at Large 568, at page 574, as amended;

Section 3 of chapter 371, 44 Statutes at Large 622, at page 626;

Chapter 625, 45 Statutes at Large 603;

The proviso at the end of the fifth paragraph under the heading "Public Health Service" in chapter 39, 45 Statutes at Large 1028, which appears at page 1039, and which reads as follows: "Provided, That funds expendable for transportation and traveling expenses may also be used for preparation for shipment and transportation to their former homes of remains of officers who die in line of duty", and substantially similar provisions appearing under the heading "Public Health Service" in chapter 289, 46 Statutes at Large 335, at page 346; chapter 110, 49 Statutes at Large 218, at page 228; chapter 725, 49 Statutes at Large 1827, at page 1839; chapter 180, 50 Statutes at Large 137, at page 148; chapter 55, 52 Statutes at Large 120, at page 132; chapter 428, 54 Statutes at Large 574, at page 584; chapter 269, 55 Statutes at Large 466, at page 480;

Chapter 82, 45 Statutes at Large 1085;

The second paragraph under the heading "Government in the Territories" in chapter 707, 45 Statutes at Large 1623, which is the seventh full paragraph on page 1644;

So much of chapter 70, 46 Statutes at Large 81, as reads: "and at his discretion to permit the erection of other buildings which may in the future be donated to promote the welfare of patients and personnel";

Chapter 125, 46 Statutes at Large 150;

Chapter 320, 46 Statutes at Large 379;

Section 4 of chapter 488, 46 Statutes at Large 585;

Chapter 597, 46 Statutes at Large 807;

Chapter 409, 46 Statutes at Large 1491;

The words "or public health" in the last sentence of section 2 of chapter 656, 48 Statutes at Large 1116;

The ninth paragraph under the heading "Public Health Service" in chapter 110, 49 Statutes at Large 218, which is the second full paragraph appearing on page 229;

Title VI of chapter 531, 49 Statutes at Large 620, at page 634;

Chapter 161, 49 Statutes at Large 1185;

That portion of chapter 550, 49 Statutes at Large 1514, which reads as follows: "or of the United States Public Health Service";

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The proviso at the end of the thirteenth paragraph under the heading "Public Health Service" in chapter 725, 49 Statutes at Large 1827, which appears at page 1840 and which reads as follows: "*Provided*, That on and after July 1, 1936, the Narcotic Farm at Lexington, Kentucky, shall be known as United States Public Health Service Hospital, Lexington, Kentucky, but such change in designation shall not affect the status of any person in connection therewith or the status of such institution under any Act applicable thereto";

The fourth paragraph under the heading "Public Health Service" in chapter 180, 50 Statutes at Large 137, which is the sixth full paragraph on page 148;

Section 2 of chapter 545, 50 Statutes at Large 547, at page 548;

Chapter 565, 50 Statutes at Large 559;

The first proviso in the paragraph having the subhead "Division of Mental Hygiene" under the heading "Public Health Service" in chapter 55, 52 Statutes at Large 120, which appears at page 134 and which reads as follows: "*Provided*, That on and after July 1, 1938, the United States Narcotic Farm, Fort Worth, Texas, shall be known as United States Public Health Service Hospital of Fort Worth, Texas, but such change in designation shall not affect the status of any person in connection therewith or the status of such institution under any Act applicable thereto.";

Chapter 267, 52 Statutes at Large 439;

Chapter 92, 53 Statutes at Large 620;

Chapter 606, 53 Statutes at Large 1266;

Chapter 636, 53 Statutes at Large 1338;

Section 509 of chapter 666, 53 Statutes at Large 1360, at page 1381;

Section 205 (b) of Reorganization Plan Numbered I, 53 Statutes at Large 1423, at page 1425;

Chapter 566, 54 Statutes at Large 747;

The fourth paragraph under the heading "Public Health Service" in Public Law 11, Seventy-eighth Congress; and

Public Law 184, Seventy-eighth Congress.

PRESERVATION OF RIGHTS AND LIABILITIES

Sec. 714. The repeal of the several statutes or parts of statutes accomplished by section 713 shall not affect any act done, or any right accruing or accrued, or any suit or proceeding had or commenced in any civil cause, before such repeal, but all rights and liabilities under the statutes or parts thereof so repealed shall continue, and may be enforced in the same manner, as if such repeal had not been made.

